



## MILPITAS PLANNING COMMISSION STAFF REPORT

May 14, 2014

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**APPLICATION:** **CONDITIONAL USE PERMIT – 15 Wilson Way – UP14-0008:** A request for the installation of three new antennas inside a new enclosed structure attached to the rooftop of an existing building.

**RECOMMENDATION:** **Staff recommends that the Planning Commission:**  
**Adopt Resolution No. 14-020 approving Conditional Use Permit No. UP14-0008 for the installation of three new antennas inside a new enclosed structure attached to the rooftop of an existing building.**

**LOCATION:**  
Address/APN: 15 Wilson Way (22-01-011)

**PEOPLE:**  
Project Applicant: Alex Orner, Sprint C/O Cortel Inc.  
Consultant(s): Same as above  
Property/Business Owner: Richard B. Oliver, D & M Associates  
Project Planner: Jocelyn Puga, Planning Intern

**LAND USE:**  
General Plan Designation: Retail Subcenter (RSC)  
Zoning District: Neighborhood Commercial (C1)  
Overlay District: Site and Architectural Overlay (-S)

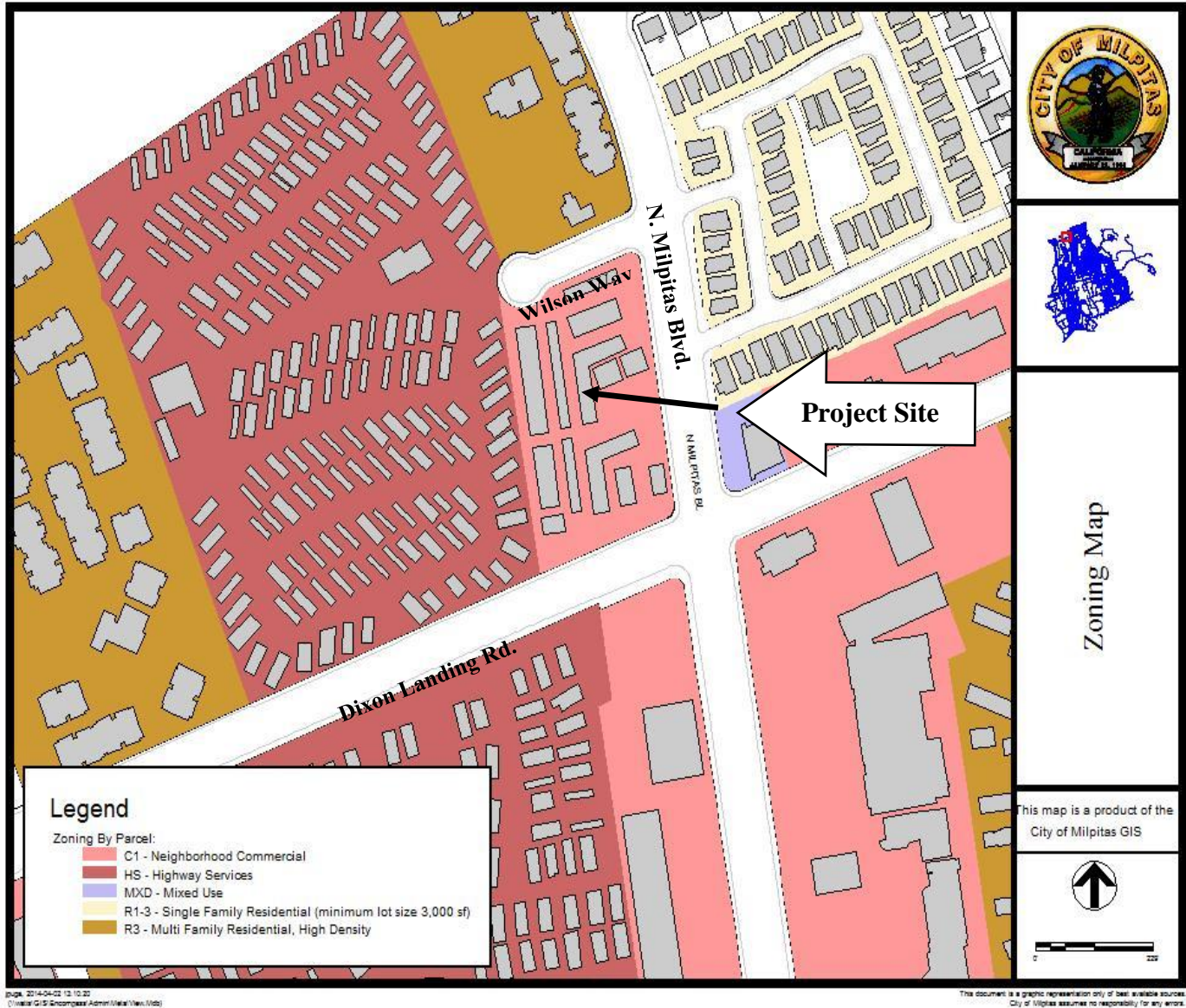
**ENVIRONMENTAL:** Categorically Exempt from further environmental review pursuant to Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA).

### **EXECUTIVE SUMMARY**

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A request for the removal of an existing antenna to be replaced with three new Sprint wireless antennas. The new antennas are proposed inside an enclosed structure, mounted to the rooftop of an existing building located at 15 Wilson Way.

# **Map 1** **Project Location**





**Map 2**  
**Project Site**



## Additional Pictures



EXISTING

**PROPOSED:** Install (3) antennas inside a 3' diameter radome on existing rooftop





## **BACKGROUND**

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### ***History***

In 1996, the Planning Commission approved a Conditional Use Permit No. UP1370 for a wireless communications facility consisting of a 33-foot tall roof mounted pole (measured from grade) with six panel antennae and installation of a new chain-link enclosure for associated equipment cabinets on a site developed with an existing mini-storage facility.

In 2009, the Planning Commission approved Conditional Use Permit Amendment No. UP09-0030 and Site Development Permit No. SA09-0011 authorizing T-Mobile to locate a new 33-foot tall roof mounted wireless communication monopole (measured from grade) with six new panel antennas and associated ground mounted equipment within a new 240 square foot enclosure. The enclosure utilizes block wall and is painted tan to match the existing building.

On June 13, 2012, the Planning Commission approved Conditional Use Permit Amendment No. UP12-0005 and Site Development Permit No. SA12-0005 to replace existing antennas with the addition of ancillary rooftop and ground mounted equipment that included the replacement of a 15-foot tall roof mounted pole with a new 30 foot tall monopole.

### ***The Application***

The following is a summary of the applicant's request:

- *Conditional Use Permit:* The proposed three new antennas and enclosure require a Conditional Use Permit per the Zoning Ordinance, Table XI-10-57.04-1 (Wireless Telecommunication Facilities).

## **PROJECT DESCRIPTION**

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### ***Overview***

The project includes a request to consider a Conditional Use Permit for the removal of one existing antenna to be replaced with three new Sprint wireless antennas and an enclosure to be mounted to the rooftop of an existing building. The proposed three antennas will be enclosed within a structure, commonly referred to as a radome. The site is zoned Neighborhood Commercial with a Site and Architectural Overlay (C1-S). There are currently three wireless antennas provided by T-Mobile and three wireless antennas provided by Sprint, for a total of six existing wireless antennas on the rooftop. There are two existing radomes on the site, one radome is provided by T-Mobile and the second existing radome is provided by Sprint. With the approval of the request, there would be a total of nine wireless antennas and three radomes.

### ***Location and Context***

The project site is located at 15 Wilson Way on a 2.45-acre parcel with one and two-story buildings that are used for mini-storage. The site is located on the northwest corner of Dixon Landing Road and N. Milpitas Blvd. The property is zoned Neighborhood Commercial with a

Site and Architectural Overlay (C1-S). Surrounding land uses include Multi-Family, High Density (R3) to the north, Neighborhood Commercial (C1) and Mixed Use (MXD) to the east, Neighborhood Commercial (C1) and Highway Services (HS) to the south, and Highway Services (HS) to the east. Vicinity and location maps of the subject site location are included on Page 2 and Page 3.

## **PROJECT ANALYSIS**

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### ***General Plan Conformance***

The General Plan designation of the project site is Retail Subcenter (RSC). The proposed project is in compliance with applicable General Plan Guiding Principles and Implementing Policies:

- 1. Policy 2.d-G-1: Provide all possible community facilities and utilities of the highest standards commensurate with the present and anticipated needs of Milpitas, as well as any special needs of the region.*

The project is consistent with this policy because the new Sprint radome and antennas will facilitate the present and anticipated needs of coverage for Milpitas as well as any special needs of the region by providing improved wireless telecommunication service.

- 2. Policy 2.a-I-3: Encourage economic pursuits which will strengthen and promote development through stability and balance.*

The project would encourage economic pursuits that will strengthen and promote development through stability and balance by enabling Sprint to provide improved coverage, which helps promote their service within the City and benefits Sprint customers.

### ***Zoning Conformance***

The zoning designation is Neighborhood Commercial with a Site and Architectural Overlay (C1-S). Federal law preserves the City's authority to regulate the placement, construction, and modification of personal wireless service facilities, so long as such regulations do not impose a blanket prohibition on the construction of such facilities or intrude into the regulation of radio frequency emissions, which are the sole province of the Federal Communications Commission and certain state regulations. Thus, the City has the power to conduct a limited review of wireless communication facilities for compliance with zoning and land use requirements (47 U.S.C. 332((c)(7)(A)). The proposed project complies with the City's Zoning Ordinance because wireless telecommunications facilities are a conditionally permitted use within all zoning districts. The project is not anticipated to create any negative impacts to surrounding land uses in terms of noise, odors, or radio frequency emissions. The proposed facility will minimize visual impacts in that the wireless facility would be painted to blend with the existing structure and is designed as an architectural appurtenance to the building.

### ***Development Standards***

The proposed use conforms to the Milpitas Zoning Ordinance in that the proposed facility complies with the development standards for the Neighborhood Commercial Zoning District and

requirements for Wireless Telecommunication Facilities. The project proposes no changes to the existing setbacks, Floor Area Ratio, existing landscaping, and complies with the height regulations for Wireless Communication Facilities pursuant to Section XI-10-13.09(7) of the Zoning Ordinance, which states: “there shall be no more than two antenna support structures that exceed 20 feet in height per parcel.” The proposed radome structure does not exceed 20 feet in height, in addition the existing two radome structures also do not exceed 20 feet in height.

### ***Radio Frequency Emissions***

The City is prohibited by federal law from regulating the placement, construction and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency (RF) emissions to the extent the facilities comply with the Federal Communications Commission’s (FCC) regulations concerning such emissions (47 U.S.C. 332©(7)(B)(iv)).

The FCC has established guidelines that place limits on human exposure to radio frequency fields generated by personal wireless service facilities. These guidelines have been endorsed by the U.S. Environmental Protection Agency and the Food and Drug Administration. The FCC requires all personal wireless facilities to comply with these guidelines. Sprint C/O Cortel Inc. has provided the City a copy of its Radio Frequency Emission Compliance Report prepared by Herbert J. Stockinger of EBI Consulting dated March 19, 2014. Based on the worst-case predictive modeling, there are no modeled exposures on any accessible rooftop-level walking/working surface related to Sprint’s proposed equipment in the area that exceed the FCC’s occupational and/or general public exposure limits at the site.

### **FINDINGS FOR APPROVAL (OR DENIAL)**

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A finding is a statement of fact relating to the information that the Planning Commission has considered in making a decision. Findings shall identify the rationale behind the decision to take a certain action.

#### ***Conditional Use Permit (Section XI-10-57.04-1(F))***

- 1. The proposed use, at the proposed location will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare;*

The proposed use will not be detrimental to the property or improvements in the vicinity nor to the public health, safety, and general welfare because the location, size, design, and operating characteristics of the proposed facility will not create unusual noise, traffic, or other conditions or situations that may be detrimental or incompatible with the surrounding land uses. The proposed wireless facility use at this location is suitable and would be compatible with the wireless telecommunication antennas and ancillary equipment already onsite. Further, the applicant has provided an approved RF report indicating that the RF human exposure is below the FCC limits.

As discussed in the Radio Frequency (RF) emissions study results for this proposed project, at the nearest walking/working surfaces to the proposed Sprint antennas, the maximum power

density is 90.5 percent of the FCC's general public limit. The composite exposure level from all other carriers existing on this site combined with Sprint's proposed antennas is 91.4 percent of the FCC's general public limit (18.28 percent of the FCC's occupational limit) at the nearest walking/working surface to each antenna. At the ground level, the maximum power density generated by the proposed Sprint antennas in combination with the existing other carriers antennas on-site is 11.3 percent of the FCC's general public limit, the project would operate within the FCC limits for RF emissions. Based on the worst-case predictive modeling, there are no modeled exposures on any accessible rooftop-level walking/working surface related to Sprint's proposed equipment in the area that exceed the FCC's occupational and/or general public exposure limits at the site.

## *2. The proposed use is consistent with the Milpitas General Plan; and*

The proposed wireless antennas are a conditionally permitted use on the commercial property. This use promotes and encourages commercial and industrial activities while providing Milpitas residents with improved wireless coverage and promotes personal business within the City. Specifically, the proposed use supports the following General Plan policies:

- Policy 2.a-I-4: Publicize the position of Milpitas as a place to carry on compatible industrial and commercial activities with special emphasis directed toward the advantages of the City's location to both industrial and commercial use
- Policy 2.a-I-3: Encourage economic pursuits which will strengthen and promote development through stability and balance.

The project would encourage economic pursuits that will strengthen and promote development through stability and balance by enabling Sprint to provide improved coverage, which helps promote their service within the City and benefits Sprint customers.

## *3. The proposed use is consistent with the Milpitas Zoning Ordinance*

The proposed use conforms to the Milpitas Zoning Ordinance in that the proposed facility complies with the development standards for the Neighborhood Commercial Zoning District and requirements for wireless telecommunication facilities. The project proposes no changes to the existing setbacks, Floor Area Ratio, existing landscaping, and complies with the height regulations for Wireless Communication Facilities pursuant to Section XI-10-13.09(7) of the Zoning Ordinance, which states: "there shall be no more than two antenna support structures that exceed 20 feet in height per parcel." The proposed radome structure does not exceed 20 feet in height, in addition the existing two radome structures also do not exceed 20 feet in height. The proposed wireless facility is a conditionally permitted use in the Neighborhood Commercial. The layout of the site and design of the proposed radome structure and three new antennas are compatible and aesthetically harmonious with the adjacent and surrounding development.

## **ENVIRONMENTAL REVIEW**

The Planning Division conducted an environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). The project is categorically exempt from



further CEQA review under Section 15301 of the CEQA Guidelines, Existing Facilities, because the project is a negligible expansion beyond the existing use. The project would also be categorically exempt under Section 15303 (New Construction or Conversion of Small Structures). The roof top already houses other wireless telecommunication facilities and the new equipment would be placed inside an existing communications and industrial equipment enclosure area.

### **PUBLIC COMMENT/OUTREACH**

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Staff provided public notice of the application in accordance with City and State public noticing requirements. At the time of writing this report, there has been one inquiry from the public regarding the height of the equipment and the emissions power of the wireless antennas. A notice was published in the Milpitas Post on May 1, 2014 (Two Fridays before the meeting) In addition, 332 notices were sent to owners and occupants within (1,000 feet) of the project site. A public notice was also provided on the project site, on the City's Website, [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov), and posted at City Hall.

### **CONCLUSION**

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The proposed radome enclosure and three new wireless antennas at the proposed location is compatible in that there are existing wireless telecommunication antennas with ancillary equipment onsite, and the new equipment will match the existing.

### **RECOMMENDATION**

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STAFF RECOMMENDS THAT the Planning Commission:

1. Conduct Public Hearing; and
2. Adopt Resolution No. 14-020 approving Conditional Use Permit No. UP14-0008 for the installation of three new antennas inside a new enclosed structure attached to the rooftop of an existing building.

### **ATTACHMENTS**

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- A: Resolution No. 14-020
- B. Site Plan
- C: Photo Simulations (Informational)
- D: Telecommunications Facility Questionnaire
- E. Federal Communications Commission License
- F. Radio Frequency Compliance Report